

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claim 1 (canceled).

Claim 2 (original): The shoe of claim 3, wherein the fabric material comprises a ground contacting surface and is free of contact with the first section.

Claim 3 (currently amended): A shoe comprising:

an upper;

~~a lower attached to the upper~~; and

an outsole attached to the ~~lower~~ upper, the outsole having a first section formed of a first material and including a ground contacting portion and a non-ground contacting portion and having a second section including an outer ground contacting layer formed of a fabric material, wherein the second section further includes a backing layer formed of a thermoplastic material, the fabric material of the outer ground contacting layer being connected to the backing layer to define an integral assembly and wherein the backing layer is integrally molded with a base section of the non-ground contacting portion of the first section to define a fused bond at a boundary zone between the backing layer and the base section such that the fabric material is a ground contacting surface, wherein the ground contacting portion of the first material is free of fabric material.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066

Amdt. Dated August 8, 2003

Claim 4 (original): The shoe of claim 3, wherein the backing layer is connected to the first material of the first section to define an integral outsole member.

Claim 5 (original): The shoe of claim 3, wherein the backing layer and the first material are made of the same material.

Claim 6 (original): The shoe of claim 3, wherein there is a gap between the fabric and the first material.

Claim 7 (original): The shoe of claim 3, wherein the fabric material is a non-woven fabric material.

Claim 8 (original): The shoe of claim 3, wherein the first material is selected from the group consisting of rubber materials and plastic materials.

Claim 9 (original): The shoe of claim 3, wherein the first material is a shape-retaining moldable thermoplastic material.

Claim 10 (currently amended): The shoe of claim 3, wherein a bottommost section of the fabric material and a bottommost section of the first section are planar with respect to one another.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claim 11 (original): The shoe of claim 3, wherein the fabric material bulges outwardly from surrounding portions of the first section of the outsole so that the fabric material extends beyond a plane containing the ground contacting surface of said surrounding portions.

Claim 12 (original): The shoe of claim 3, wherein the second section occupies a portion of the ground contacting surface which is greater than the first section.

Claims 13-14 (canceled).

Claim 15 (currently amended): A shoe outsole comprising:

a first section including a ground contacting portion and a non-ground contacting portion; and

a second section including an outer ground contacting layer formed of a fabric material, wherein the second section includes a backing layer formed of a thermoplastic material and being connected to the fabric material to define an integral insert, wherein the non-ground contacting portion of the first section includes at least one recessed section for receiving the insert, the backing layer being integrally molded with a base of the recessed section to define a fused bond at a boundary zone between the backing layer and the base so that the fabric material and the ground contacting portion of the first section together comprise a ground contacting surface, wherein the ground contacting portion of the first section is free of fabric material.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claim 16 (original): The outsole of claim 15, wherein the backing layer and the first section comprise a material selected from the group consisting of rubber materials and plastic materials.

Claim 17 (original): The outsole of claim 15, wherein the second section occupies a portion of the ground contact surface which is greater than the first section.

Claims 18-32 (canceled).

Claim 33 (original): The shoe outsole of claim 15, wherein the non-ground contacting portion is moldably attached to the backing layer.

Claim 34 (original): The shoe outsole of claim 15, wherein the non-ground contacting portion of the first section completely surrounds the fabric material.

Claim 35 (original): The shoe outsole of claim 15, wherein there is a gap between a perimeter edge of the fabric material and the non-ground contacting portion of the first section.

Claim 36 (currently amended): The shoe outsole of claim 15, wherein the fabric material occupies more than 50% of a ground contacting surface of the outsole.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claims 37-38 (canceled).

Claim 39 (currently amended): A shoe comprising:

an upper;

~~a lower attached to the upper;~~ and

an outsole [and] formed of a first material and having a first face attached to the ~~lower~~upper and a second face defining a ground contacting surface, the second face having at least one recessed section for receiving at least one insert, each insert being formed of a thermoplastic backing layer and an outer ground contacting layer that is formed of a fabric material which is integrally attached to the backing layer, wherein the backing layer and the first material are integrally, moldably attached in a softened state to form a unitary outsole construction with the fabric material defining a ground contacting surface.

Claim 40 (previously added): The shoe of claim 39, wherein the first material comprises a thermoplastic material.

Claim 41 (previously added): The shoe of claim 39, wherein the backing layer is attached to the first material along at least a base floor of the recessed section by a fused bond.

Claim 42 (previously added): The shoe of claim 39, wherein the fabric material occupies more than 50% of the entire ground contacting surface of the outsole.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066

Amdt. Dated August 8, 2003

Claim 43 (new): The shoe of claim 3, wherein the fabric material has a prescribed pattern that is formed as a part thereof.

Claim 44 (new): The shoe of claim 3, wherein the backing layer includes a prescribed pattern formed as a part thereof which is visible through the fabric material when the fabric material is integrally attached thereto.

Claim 45 (new): The shoe outsole of claim 15, wherein the fabric material has a prescribed pattern that is formed as a part thereof.

Claim 46 (new): The shoe outsole of claim 15, wherein the backing layer includes a prescribed pattern formed as a part thereof which is visible through the fabric material when the fabric material is integrally attached thereto.

Claim 47 (new): An outsole for a walking, leisure, or formal shoe having a plurality of shoe components, the outsole comprising:

a backing part of a shape-retaining moldable material, the backing part having a non-ground contacting portion and a ground contacting portion;

a ground contacting fabric part that is retained and held in place by the non-ground contacting portion of the backing part;

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

the backing part being molded in a common mold in situ with, and integrally embedded in, the fabric part to resist separation of the fabric part from the non-ground contacting portion of the backing part; and

wherein the ground contacting portion of the backing part is free of fabric material and the backing part has a visible bare region uncovered by the fabric part, the backing part and the fabric part together constituting a discrete molded shoe component for non-moldable assembly at the bare region out of contact with the fabric part with other of the shoe components.

Claim 48 (new): The outsole of claim 47, wherein the moldable material comprises a thermoplastic.

Claim 49 (new): The outsole of claim 47, wherein the outsole has a ground contacting surface that comprises the ground contacting fabric part and the ground contacting portion of the backing part, and wherein the fabric part occupies more than 50% of the ground contacting surface of the outsole.

Claim 50 (new): The outsole of claim 47, wherein the moldable material extends around a perimeter of the fabric material.

{M:\0851\01118\00035986.DOC [REDACTED]}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claim 51 (new): The outsole of claim 47, wherein the fabric part includes a peripheral edge and wherein at least a portion of the peripheral edge is disposed along the backing part so as to be ground contacting.

Claim 52 (new): A shoe comprising:

an outsole having a backing layer that is formed of a thermoplastic material and is a molded member that includes a ground contacting portion and a non-ground contacting portion;

a ground contacting fabric layer formed of a fabric material that is integrally attached to, retained and held in place by the backing layer to define an integral outsole, wherein a molded bond results between the fabric material and the backing layer as a result of in situ molding of the fabric material and the backing layer in a common mold;

wherein the ground contacting portion of the backing layer is free of fabric material and the backing layer includes a bare region that is free of fabric material; and

an upper non-moldably attached to the backing layer at the bare region.

Claim 53 (new): The shoe of claim 52, wherein a ground contacting surface of the outsole is defined by the ground contacting fabric layer and the ground contacting portion of the backing layer, and wherein the fabric layer occupies more than 50% of the ground contacting surface.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claim 54 (new): The shoe outsole of claim 15, wherein the fabric material has a prescribed ground contacting pattern that occupies more than 50% of the ground contacting surface of the outsole.

Claim 55 (new): A shoe, comprising:

an upper;

an outsole defining a ball portion and a shank and comprising a backing part and a shaped fabric member, the shaped fabric member being disposed on the ball portion of the outsole and being oriented away from the upper so as to engage the ground when the shoe is in use, wherein the backing part is moldably embedded in the shaped fabric member to resist separation of the shaped fabric member from the backing part;

a heel depending from the outsole and having a bottommost portion that engages the ground when the shoe is in use; and

a connection between the upper and the outsole along a visible bare region of the backing part that is free of the shaped fabric member.

Claim 56 (new): The shoe of claim 55, wherein the upper comprises an exterior cover and a foam layer.

Claim 57 (new): The shoe of claim 56, wherein the exterior cover is one of velvet, leather and fabric.

{M:\0851\01118\00035986.DOC [REDACTED]}

Appl. No. 09/804,066

Amdt. Dated August 8, 2003

Claim 58 (new): The shoe of claim 56, wherein the foam layer includes a fabric backing and wherein the fabric backed foam layer is stitched to the exterior cover.

Claim 59 (new): The shoe of claim 55, further comprising a lower having multiple layers including a top layer and a support layer.

Claim 60 (new): The shoe of claim 59, wherein the lower further comprises a cushion element and wherein the top layer and the cushion element are integral.

Claim 61 (new): The shoe of claim 56, further comprising a lower and wherein the exterior cover includes a portion that extends around and underneath an edge of the lower that is in contact with the lower.

Claim 62 (new): The shoe of claim 61, wherein exterior cover and the lower are adhesively secured to one another along the portion that is in contact with one another.

Claim 63 (new): The shoe of claim 55, wherein the heel is integrally formed as a part of the outsole.

Claim 64 (new): The shoe of claim 55, wherein the bottommost portion of the heel comprises a shaped rubber pad.

{M:\0851\01118\00035986.DOC [REDACTED]}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claim 65 (new): The shoe of claim 55, wherein the ball portion engages the ground surface when the shoe is in use and wherein the shank is angled upwardly and away from the ground surface when the bottommost portion of the heel and the ball portion are seated against the ground surface.

Claim 66 (new): The shoe of claim 55, wherein the bottommost portion of the heel and the ball portion define ground contacting surfaces and wherein the shaped fabric member on the ball portion comprises more than 50% of the ground contacting surfaces.

Claim 67 (new): The shoe of claim 66, wherein the shaped fabric member on the ball portion has a prescribed ground contacting pattern.

Claim 68 (new): The shoe of claim 55, wherein the backing part and the shaped fabric member comprise an integral assembly joined by molding the backing part and the shaped fabric member together in a common mold.

Claim 69 (new): The shoe of claim 55, wherein the shaped fabric member is retained and held in place solely by the backing part.

Claim 70 (new): The shoe of claim 55, wherein the backing part includes a ground contacting portion the shaped fabric member.

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Claim 71 (new): The shoe of claim 55, wherein the shaped fabric member occupies greater than 50% to about 90% of the entire ground contacting surface of the outsole.

Claim 72 (new): The shoe of claim 55, wherein the upper comprises a toe strap which extends across an upper portion of a foot and an ankle strap, wherein the ankle strap includes means for securing the ankle strap around a wearer's ankle.

{M:\0851\01118\00035986.DOC [REDACTED]}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

Amendments to the Abstract:

Please delete the existing abstract and insert the following new abstract therefor:

--Improvements in shoe constructions are provided that provide ground contacting surfaces of multiple materials that resist separation from one another and which provide traction and tariff benefits.--

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003

REMARKS/ARGUMENTS

By this Preliminary Amendment, certain claims have been amended and new claims have been added to more completely cover the subject matter of applicants' disclosure.

Claims 3 and 39 have been amended to omit the requirement of a lower attached to the upper as such feature is not believed to be necessary for patentability. As amended, the outsole attaches directly or indirectly to the upper.

Claims 3 and 15 have been amended to recite that the first material has a ground contacting portion that is "free of fabric material." These claims were previously allowed and none of the newly listed documents in the accompanying information disclosure statement ("IDS") bear on this feature. Consequently, these claims are submitted to be in condition for allowance for the reasons that they were previously allowed.

Newly presented claims 47 and 52 recite an outsole and shoe, respectively, having multi-material ground contacting surfaces that attach to a shoe upper along a bare region not covered by a fabric part. The closest prior art is believed to be the Otis (et al.) patent cited in the accompanying IDS, yet Otis has a single material ground contacting surface (namely, fabric).

Applicants hereby reserve the right to claim priority from the Otis (et al.) patent should the need arise.

Newly presented independent claim 55 concerns a shank and heeled shoe with multi-material ground contacting surfaces including a fabric layer moldably embedded into a backing

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

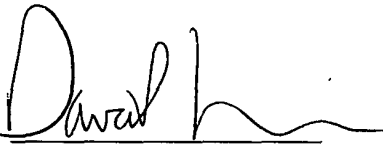
Appl. No. 09/804,066
Amdt. Dated August 8, 2003

part. The art of record does not teach or suggest this combination of features with a connection to an upper along a visible bare region of the backing part.

Applicant respectfully requests that a Notice of Allowance be issued in this case.

Dated: August 8, 2003

Respectfully submitted,

By: 

David Leason
Reg. No. 36,195
Attorney for Applicants

Darby & Darby P.C.
Post Office Box 5257
New York, NY 10150-5257
212-527-7700

{M:\0851\01118\00035986.DOC ■■■■■■■■■■}

Appl. No. 09/804,066
Amdt. Dated August 8, 2003